



Michigan Supreme Court
State Court Administrative Office
Trial Court Services Division
Michigan Hall of Justice
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September 4, 2007

TO: Hon. Judy Hartsfield, 3rd Circuit Court
Pamela Jarvis, Probate Register, Barry County Probate Court
Hon. R. Terry Maltby, Sanilac County Probate Court
Johanna O'Grady-Ward, 3rd Circuit Court
David C. Rauch, Court Administrator, Charlevoix County Probate Court
Hon. Kenneth Tacoma, Wexford County Probate Court
Sheryl Thompson, Genesee County DHS
Hon. Karen Tighe, Bay County Probate Court
Linda S. Weiss, 42nd Circuit Court

FROM: Amy L. Byrd

RE: Materials for September 20, 2007 Michigan Court Forms Committee Meeting

PLACE: State Court Administrative Office (Conference Room 5N-58), Lansing (map enclosed)

Below is the agenda for the September 20 meeting for the Family Division of the Circuit Court Section of the Michigan Court Forms Committee. The meeting starts at 9:30 a.m. and ends at 3:30 p.m. **Luncheon reservations have been made for you; if you cannot attend, please contact me at least two days before the meeting.** We are located at 925 W. Ottawa. A map has been provided.

Although documentation is provided with the agenda, it would be helpful to bring a copy of the juvenile code and the Michigan Court Rules.

A. Notice of Minor Corrections

Forms requiring minor changes, such as spelling, citations, grammar, punctuation, etc., will be corrected by the State Court Administrative Office. These forms will not be provided with the agenda materials and do not need to be discussed or approved by the Forms Committee. However, any of these forms will be discussed if members raise substantive issues with the SCAO before the day of the meeting. The following forms will be corrected and distributed in December 2007: JC 04a, JC 37, JC 45, JC 48, JC 74, JC 77, JC 78, JC 85, PCA 301, PCA 303, PCA 304, PCA 305a, PCA 308a, PCA 309, PCA 310, PCA 311, PCA 312, PCA 313, PCA 314, PCA 318, PCA 319, PCA 320, PCA 321, PCA 321a, PCA 322, PCA 323, PCA 325, PCA 326, PCA 327, PCA 329, PCA 332, PCA 334, PCA 335, PCA 336, PCA 337, PCA 338, PCA 339, PCA 340, PCA 341, PCA 342, PCA 343, PCA 344, PCA 345, PCA 346, PCA 347, PCA 348, PCA 349, PCA 350, and PCA 351.

B. Juvenile and Child Protective Forms

1. JC 04b, Petition (Child Protective Proceedings)

A request has been made to add space for the name of the father in item 5c. Apparently, it is being presumed that the parental rights of all fathers is being requested, when in fact, it may only be certain fathers. Also, there is a typographical error in item 2 that needs correcting. Finally, there is a request to increase space for phone numbers in item 4. Are users willing to go to a two page form in order to provide more space for names, addresses, and telephone numbers? If so, item 4 would be redesigned.

2. JC 11a, Order After Preliminary Hearing (Child Protective Proceedings)

Reference in item 14 to schedule a permanency planning hearing within 30 days should be changed to 28 days to comply with a recent amendment to MCR 3.976(B)(1).

3. JC 11b, Order After Pretrial Hearing (Child Protective Proceedings)

Reference in item 11 to schedule a permanency planning hearing within 30 days should be changed to 28 days to comply with a recent amendment to MCR 3.976(B)(1).

4. JC 17, Order of Disposition (Child Protective Proceedings)

Reference in item 11 to schedule a permanency planning hearing within 30 days should be changed to 28 days to comply with a recent amendment to MCR 3.976(B)(1).

Also, it has been suggested that this order be combined with JC 49 when a combined adjudication/disposition hearing is conducted based on a belief that the statutory findings at adjudication must be included in the order of disposition. Is it necessary for the statutory findings made at adjudication to be reduced to writing, or is it sufficient that they are on the record? All other necessary findings, such as reasonable efforts, are included in this order. Should a separate, combined order be created?

Finally, a request has been made to add a line for a combined dispositional/permanency planning hearing in item 27. Is this necessary, or is it sufficient/possible to place the same hearing date in each of the separate lines already provided?

5. JC 19, Order Following Dispositional Review/Permanency Planning Hearing

A request has been made to add a line for a combined dispositional/permanency planning hearing in item 27. Is this necessary, or is it sufficient/possible to place the same hearing date in each of the separate lines already provided?

6. JC 25, Order of Disposition, Commitment Referral to Department of Human Services (Delinquency Proceedings)

Should item 20 be removed? MCL 712A.18(3) states that “[a]n order of disposition placing

a juvenile in the juvenile's own home under subsection (1)(b) may contain a provision for reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of service. If an order is entered under this subsection, an amount due shall be determined and treated in the same manner provided for an order entered under subsection (2).” Wouldn’t this information be included in the reimbursement provisions stated in item 18? This is the only form with a separate item for a service fee.

7. **JC 32, Publication of Hearing**

A request has been made to reword the first line. The use of the word “on” makes it unclear whether the line should contain a type of hearing or a date. It is suggested that line say: “A hearing regarding _____ will be conducted . . .”

8. **JC 47, Order for Alternate Service**

A request has been made to add a line in item 3a to specify where publication should take place, such as another state or multiple locations.

9. **JC 49, Order of Adjudication (Child Protective Proceedings)**

Reference in item 14 to schedule a permanency planning hearing within 30 days should be changed to 28 days to comply with a recent amendment to MCR 3.976(B)(1).

10. **JC 57, Supplemental Order of Disposition Following Review Hearing (Delinquency Proceedings)**

A request has been made to remove the check box in front of item 18 and to change the language to say: “The previous order dated _____ remains in effect except as modified by this order.” This is standard language used on other forms.

Also, a request has been made to add an option for commitment to DHS when probation is found to ineffective.

11. **JC 59, Order of Adjudication (Delinquency Proceedings)**

A suggestion has been made to make it clear that the date to be entered in item 5 is the date the petition is authorized, not the date the petition is received by the court for filing or the date the petition is prepared and signed by the petitioner.

12. **JC 63, Order After Preliminary Hearing (Child Protective Proceedings)**

Reference in the note at the foot of the form to hold a permanency planning hearing within 30 days should be changed to 28 days to comply with a recent amendment to MCR 3.976(B)(1).

A question has been raised whether this note applies to all terminations or only those terminations based on aggravated circumstances or other statutory basis. Currently, the

note states “When parental rights are terminated, a permanency planning hearing must be held within 30 days unless a permanency planning hearing was held before termination (form JC 19). If proper notice has already been given, the permanency planning hearing can be conducted immediately following the termination hearing. This is especially useful in obtaining a uniform date for future permanency planning hearings when parental rights have been terminated to more than one child and the removal dates of the children are different. Use form JC 76.” Does MCL 712A.19a(2) mean anytime the court makes a determination that efforts to reunify are no longer required, which is a finding made when the court terminates parental rights for any reason? Or, does MCL 712A.19a(2) apply only to those situations outlined following the second sentence of the statute? Michigan Court Rules 3.976(B)(1) restates that statute in the second manner, as does 42 USC 671(a)(15)(D). Should the note be changed?

Finally, a request has been made to add a date and signature line for the referee.

13. JC 65, Order Removing Alleged Abuser From Child’s Home (Child Protective Proceedings)

Although MCL 712A.13a provides for removal of an alleged abuser from a child’s home and MCL 764.15f states that an alleged abuser may be arrested upon review of an order in LEIN, there is no corresponding provision in statute authorizing law enforcement to enter such an order on LEIN. Therefore, item 9 either needs to be removed or replaced with more appropriate language.

14. JC 82, Affidavit of Service Performed by Lawyer-Guardian Ad Litem

The statutory language in item 2 conflicts with provisions in court rule. MCL 712A.17d states the lawyer-guardian ad litem must “meet with or observe the child and assess the child’s needs and wishes with regard to the representation and the issues in the case” at certain prescribed times. Michigan Court Rule 3.915(B)(2) says “[a]t each hearing, the court shall inquire whether the lawyer-guardian ad litem has met or had contact with the child, as required by the court or MCL 712A.17d(1)(d).” Should the form comply with the higher standard prescribed by statute, or is the language a statutory practice provision that may be superseded by court rule pursuant to MCR 1.104? An option would be to use check box options to indicate whether the lawyer-guardian ad litem met with, observed, or had contact with the child(ren).

15. New Form, Preadjudication Review Hearing (Child Protective Proceedings)

Is there a need to develop a statewide order for use pursuant to MCR 3.972(A) when the trial has not been held within 182 days of the date of a child’s removal.

16. Preadjudication Permanency Planning Hearing (Child Protective Proceedings)

Is there a need to develop a statewide order for use after an initial permanency planning hearing held before a trial has been held pursuant to MCR 3.976(B)(1)?

17. **New Form, Order Following Permanency Planning Hearing (Delinquency Proceedings)**

Is there a need for a statewide order following a permanency planning hearing in delinquency proceedings?

18. **New Form, Order for Correction and/or Clarification of Child's Name (Child Protective Proceedings)**

A suggestion has been made to develop a statewide order to correct the name of a child as it appears in the legal file. A draft is provided.

19. **New Form, Motion and Order to Reduce Costs**

A suggestion has been made to develop a statewide motion and order for reducing fees and costs beyond the state minimum costs provided for in JC 52 and the restitution provided for in JC 54. A draft is provided.

20. **New Form, Motion for Next Friend**

Apparently, some courts require a petitioner to complete a motion for a next friend in a personal protection proceeding. Pursuant to MCR 3.703(F)(2), the determination for appointment is based on a decision made by the court rather than a motion by the petitioner. Is this interpretation of the court rule incorrect. If so, is there a need to develop a statewide motion for a next friend? If there is no need for a statewide motion, and there is a belief that the determination in MCR 3.703(F)(2) should be based on a motion by the petitioner, should there be local court rules in place when courts mandate the use of local forms and should those local forms be made available by the court as suggested by MCR 8.112(A)(2)?

C. Adoption Forms

21. **PCA 307, Consent to Adoption by Adoptee**

Does the language in item 4 that says "except if this is a stepparent adoption, in which case I remain an heir of my biological parent whose rights were terminated" need to be removed pursuant to MCL 700.2114(3) and MCL 710.60? MCL 700.2114(2) seems to say otherwise; however, MCL 700.2114(3) refers to the permanent termination of parental rights by "any other process recognized by law governing the parent-child statute at the time of termination," and in a stepparent adoption, the rights of the noncustodial parent are being terminated. Is this a conflict?

22. **PCA 315, Declaration of Inability to Identify/Locate Father**

In reviewing the form for compliance with forms standards, questions arose about the intended information in item 3. Would it be helpful to provide captions under the lines to indicate whether names and addresses should be included along with the actual attempts made to locate the father?

D. Other Circuit Court Family Division Forms

23. PC 100, Petition for Emancipation, Affidavit, and Waiver of Notice

A suggestion has been made to add an instruction to the petitioner that he or she may want to cross out the social security number on the birth certificate before filing it with the court. Otherwise, the social security number will be publicly available through the birth certificate even though the petition has been modified to only provide the last four digits.

24. New Form, Publication of Notice of Hearing for Name Change

A request has been made to develop a statewide publication of notice of hearing for name changes. The form would be used in place of PC 563 for name change petitions.

25. New and Revised Forms for Use Under the Amended Safe Delivery of Newborn Act

New and revised forms were drafted for use under the amended Safe Delivery of Newborn Act, effective January 1, 2007. Drafts are provided. In summary:

A new form was not created for MCL 712.10(2) since MC 316 can be used for transfer. CCFD 04 was not amended to include any of the changes in MCL 712.11 because they are not information that the court would order or advise a petitioner about. Reference to MCL 722.716 was added to CCFD 04 although it probably isn't necessary. CCFD 06 was modified to comply with changes in MCL 712.15, the most significant change was to accommodate situations where both parents have petitioned for custody. CCFD 04a, CCFD 07, and CCFD 08 are new forms.

No form was created for advice of rights after termination because there is no express authority for it under this act. Use of PCA 323 and JC 44 is not appropriate since termination is clearly not being ordered pursuant to the adoption code or the juvenile code. If the right to appeal is deemed a constitutional issue, there may be some authority to create something. Otherwise, courts should determine locally how to handle this.

Attachments

cc: Nial Raaen, Director, Trial Court Services
Anne Boomer, Supreme Court
Sally LaCross, Supreme Court
Dawn Childress, Trial Court Services
Jennifer Warner, Trial Court Services
Steven D. Capps, Child Welfare Services
Judicial Information Systems
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